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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

BEFORE

THE HON'BLE MR JUSTICE R V RAVEENDRAN

Writ Petition No 2476 of 1989

256

Between:

Smt Lakshmamma
w/o late B. Ramaiah
r/a No.652, Bandeppa Street
Yeshwanthapur
Bangalore 560 022 .. Petitioner

(By Sri S. Chennaraya Reddy, Advocate)

And:

1. The State of Karnataka
represented by its Secretary
Housing and Urban Development
Department, M S Building
Dr. Ambedkar Veedhi
Bangalore - 560 001

2. The Corporation of the City
of Bangalore, represented by its
Commissioner, Corporation Offices
Bangalore - 560 002

3. The Deputy Director of Town
Planning, Corporation of the
City of Bangalore, Corporation
Offices, Bangalore 560 002 ..Respondents

(By Sri A Nagarajappa, AGA, for R1;
Sri Muniyappa, Adv. for R2 & R3)

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Writ Petition is filed praying to quash Annexure-Q dated 31-1-1989.

This writ petition coming on for hearing this day, the Court made the following:-

ORDER

The petitioner claims to be the owner of premises bearing No 33, Pipeline Road, Yeshvanthpur, Bangalore. She applied for and obtained a licence and sanction plan for construction of a multistoreyed building as per LP 546/87-88 dated 21-10-1987. The petitioner claims to have commenced the construction of the building and it is seen from the photographs vide Annexure 'L' and 'N', that the building was at an advanced stage of construction in the year 1989,

2. When matters stood thus, the Bangalore City Corporation issued a show cause notice dated 21-10-1988 [Annexure 'O'] alleging that the petitioner had obtained the licence without disclosing that the BCC proposed to acquire the said property for extension of market complex and therefore called upon her to show cause why the sanctioned plan should not be revoked. The petitioner sent her reply on 25-10-1988 vide Annexure 'P', inter alia, contending that the Taxation and Finance

Committee of the BCC had decided not to proceed with the acquisition in regard to her property and the licence already granted could not be revoked. Thereafter, the third respondent has passed an order on 31-1-1989 [Annexure 'Q'] revoking the licence, on the ground that the petitioner had not disclosed the proposed acquisition in regard to the property in question while obtaining the sanction of the plan. Feeling aggrieved, the petitioner has filed this petition and sought quashing of Annexure 'Q' dated 31-1-1989.

3. This court while issuing Rule, on 10-2-1989, stayed the operation of Annexure 'Q'. Consequently, it is stated that the building that was under construction at the time of filing of this petition, is now completed and it is in use for several years.

4. The respondents have not filed objections and traversed the petition averments. The question for consideration is whether the corporation can cancel the licence which has been granted merely on the ground that the proposal for acquisition has not been disclosed by the petitioner.

5. The petitioner contends that the second respondent Corporation had decided not to proceed with the acquisition of her property. It is stated that no final notification has been issued in regard to the acquisition of the said property. Second respondent should know whether there is any proposal for acquisition of property in question or not and whether it proposes to finalise the acquisitions. If the corporation wanted to acquire the petitioners property, for any public purpose, it was for the corporation to verify whether there was any acquisition in its favour and take suitable action while granting the licence. Instead of it, the corporation granted the licence and sanctioned the plan. Having sanctioned the plan, the corporation could not have cancelled the licence on the ground that there was a proposal for acquisition of the said property. None of the respondents including the second respondent has filed objections traversing the petition averments. Hence, the Court will have to proceed on the basis that there is no acquisition.

6. In view of above, this petition is allowed and Annexure 'Q' is quashed. This will not come in the way of corporation acquiring the property, if it required for any public purpose, in accordance with law.

Sri Nagarajappa, learned AGA, is permitted to file memo of appearance within four weeks.

Sd/-
JUDGE

*pjk/ujk